

APR 10 2003

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA )  
DEPARTMENT OF INSURANCE, )  
PETITIONER, )

CONSENT ORDER

VS. )

CAUSE NO. A-1492

DAVID KETTELHAKE, )  
RESPONDENT. )

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine M. Neighbors, and David Kettelhake ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §44-101.01 and §44-4047, et seq.
2. Respondent is licensed as a resident insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. David Kettelhake on March 25, 2003. A copy of the petition was served upon the Respondent at the office of Respondent's counsel by certified mail, return receipt requested.
2. The Department alleges that Respondent violated Neb. Rev. Stat. §44-4059(1)(b), (d) and (h) as a result of the following conduct:
  - a. On or about December 4, 2002, Respondent accepted \$1,656.20 from Table Rock Rural Fire for the purchase of commercial auto insurance.

Respondent then deposited said premium funds into his agency bank account and failed to remit the funds to the insurer.

b. On or about December 11, 2002, Respondent accepted \$1,274.70 from Robert Moser for the purchase of farm owners insurance. Respondent then deposited said premium funds into his agency bank account and failed to remit the funds to the insurer.

c. On or about December 11, 2002, Respondent accepted \$1,262.65 from Joree and Deloris Bennett for the purchase of auto and homeowners insurance. Respondent then deposited said premium funds into his agency bank account and failed to remit the funds to the insurer.

d. On or about January 3, 2003, Respondent accepted \$1,000.00 from Mary Marteney for the purchase of auto insurance. Respondent then deposited said premium funds into his agency bank account and failed to remit the funds to the insurer.

e. In addition to the instances specified in Paragraphs (a)-(d) above, over a course of time from December 4, 2002 to January 3, 2003, Respondent accepted an additional \$3,839.10 in insurance premium from various customers. Respondent deposited said premium funds into his agency bank account and failed to remit the funds to the insurer.

f. When the insurer requested the funds from Respondent, Respondent did not have the funds available. Respondent failed to hold the funds he received as an insurance producer in a fiduciary capacity.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent neither admits nor denies the allegations contained in the Petition and restated in Paragraph 2 above.

5. On or about March 23, 2003, Respondent transmitted funds in the amount of \$9,032.65 to the insurer.

## CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb.Rev.Stat. §44-4059

(1)(b), (d), and (h).

## CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, David Kettelhake, that Respondent consents to the revocation and surrender of his insurance agent's license. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this

document by subscribing his or her signature below.


document by subscribing his or her signature.

Christina M. Negibos  
Attorney for Petitioner

Attorney for Petitioner

4/10/03  
Date

Date \_\_\_\_\_

  
David Kettelhake

David Kettelhake

4-9-03  
Date

Date \_\_\_\_\_

Charles M. Fallon  
Attorney for Respondent

Attorney for Respondent

4/09/03  
Date

Date \_\_\_\_\_

State of Nebraska )  
 ) ss.  
County of Lancaster )

County of Lancaster

On this 9<sup>th</sup> day of ~~March~~<sup>April</sup>, 2003, David Kettelhake personally appeared before me and is Consent Order, executed the same and acknowledged the same to be his voluntary act and

Sammy S. Bartels  
Notary Public

**Notary Public**

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. David Kettelhake, Cause No.: A-1492.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



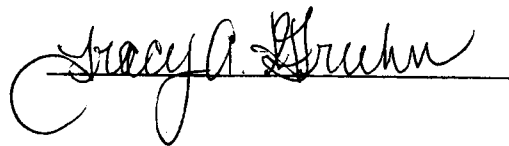
L. TIM WAGNER  
Director of Insurance

4/10/03

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was served upon Respondent by mailing a copy to Respondent's counsel, Charles M. Pallesen, Jr., Cline, Williams, Wright, Johnson & Oldfather, LLP, 1900 U.S. Bank Building, 233 South 13<sup>th</sup> Street, Lincoln, Nebraska 68508 by certified mail, return receipt requested, on this 10<sup>th</sup> day of April, 2003.



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